

Senate Study Bill 3116

SENATE/HOUSE FILE _____
BY (PROPOSED CITIZENS'
AIDE/OMBUDSMAN BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to protection of personal information and notice
2 procedures following a breach of security.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5495DP 82
5 md/rj/5

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1 1 Section 1. NEW SECTION. 23.1 SHORT TITLE.
1 2 This chapter shall be known and may be cited as the
1 3 "Personal Information Protection Act".
1 4 Sec. 2. NEW SECTION. 23.2 DEFINITIONS.
1 5 1. "Breach of security" means any of the following:
1 6 a. The unauthorized access to or acquisition of personal
1 7 information.
1 8 b. The unauthorized access to or acquisition of any
1 9 electronic device containing personal information that
1 10 compromises the security, confidentiality, or integrity of
1 11 such personal information.
1 12 c. The unauthorized disclosure of personal information
1 13 subsequent to a good faith, authorized access to or
1 14 acquisition of personal information.
1 15 2. "Government body" means government body as defined in
1 16 section 22.1.
1 17 3. "Personal information" means an individual's first name
1 18 or first initial and last name in combination with any one or
1 19 more of the following data elements that relate to the
1 20 individual if neither the name nor the data elements are
1 21 encrypted, redacted, or otherwise altered by any method or
1 22 technology in such a manner that the name or data elements are
1 23 unreadable:
1 24 a. Social security number.
1 25 b. Driver's license number or other unique identification
1 26 number created or collected by a government body.
1 27 c. Financial account number, credit card number, or debit
1 28 card number in combination with any required security code,
1 29 access code, or password that would permit access to an
1 30 individual's financial account.
1 31 d. Unique electronic identifier or routing code, in
1 32 combination with any required security code, access code, or
1 33 password.
1 34 e. Unique biometric data, such as a fingerprint, voice
1 35 print or recording, retina or iris image, or other unique
2 1 physical representation or digital representation of the
2 2 biometric data.
2 3 4. "Public records" means the same as defined in section
2 4 22.1.
2 5 Sec. 3. NEW SECTION. 23.3 PROTECTION OF PERSONAL
2 6 INFORMATION == DESTRUCTION OF PUBLIC RECORDS.
2 7 A government body shall do all of the following:
2 8 1. Take all reasonable steps to destroy or arrange for the
2 9 destruction of public records within its custody or control
2 10 containing personal information that is no longer required to
2 11 be retained by the government body by shredding, erasing, or
2 12 otherwise modifying the personal information in the public
2 13 records to make it unreadable or undecipherable through any
2 14 means.
2 15 2. If the government body is a lawful custodian of
2 16 personal information pursuant to chapter 22, the government
2 17 body shall implement and maintain reasonable security
2 18 procedures and practices appropriate to the nature of the
2 19 information to protect the personal information from

2 20 unauthorized access, destruction, use, modification, or
2 21 disclosure.

2 22 Sec. 4. NEW SECTION. 23.4 BREACH OF SECURITY == NOTICE.

2 23 1. A government body that collects, maintains, or
2 24 processes a public record containing personal information
2 25 shall disclose any breach of security to each affected
2 26 individual upon discovery or notification of the breach of
2 27 security. Notice shall be made in the most expedient time and
2 28 manner possible and without unreasonable delay, consistent
2 29 with any measures necessary to determine the scope of the
2 30 breach of security and with the legitimate needs of law
2 31 enforcement as provided in subsection 2.

2 32 2. If requested by a law enforcement agency, the
2 33 government body shall delay giving notice if notice may impede
2 34 a criminal investigation or endanger state or national
2 35 security. The request by a law enforcement agency shall be in
3 1 writing or documented in writing by the government body. The
3 2 written request shall include the name of the law enforcement
3 3 officer making the request and the name of the law enforcement
3 4 agency conducting the investigation or responsible for state
3 5 or national security. After the law enforcement agency
3 6 notifies the government body that notice of the breach of
3 7 security will no longer impede the investigation or endanger
3 8 state or national security, the government body shall give
3 9 notice to the affected individuals without unreasonable delay.

3 10 3. Notice provided by a government body shall be clear and
3 11 conspicuous and shall include all of the following:

3 12 a. A description of the incident causing the breach of
3 13 security.

3 14 b. The type of personal information compromised by the
3 15 breach of security.

3 16 c. A description of any remedial action taken by the
3 17 government body.

3 18 d. Contact information for an individual within the
3 19 government body with whom the individual may communicate in
3 20 order to receive further information and assistance.

3 21 e. A statement advising the affected individual to
3 22 thoroughly and continually review financial account
3 23 information and credit reports.

3 24 4. Notice shall be provided by at least one of the
3 25 following:

3 26 a. Written notice to the affected individual's last
3 27 address of record.

3 28 b. Electronic mail notice, if the affected individual has
3 29 agreed to receive communications electronically and the notice
3 30 complies with chapter 554D.

3 31 c. Telephonic notice, if the communication is made
3 32 directly with the affected individual.

3 33 d. Substitute notice, if the government body determines
3 34 that the cost of providing notice to the affected individual
3 35 under paragraphs "a" through "c" exceeds one hundred thousand
4 1 dollars, the total cost of providing notice to all affected
4 2 individuals exceeds two hundred fifty thousand dollars, or the
4 3 government body does not have sufficient contact information
4 4 needed to provide notice under paragraphs "a" through "c".

4 5 Substitute notice shall consist of any of the following:

4 6 (1) Electronic mail notice.

4 7 (2) Conspicuous notice posted on the government body's
4 8 internet site.

4 9 (3) Notification through local or statewide media.

4 10 5. Notwithstanding the requirements of this section, a
4 11 government body that has approved its own notification
4 12 procedures for a breach of security involving personal
4 13 information, which are otherwise consistent with the
4 14 requirements of this chapter, shall be deemed to be in
4 15 compliance with this section if the government body notifies
4 16 the affected individuals of the breach of security in
4 17 accordance with its own procedures.

4 18 EXPLANATION

4 19 This bill requires a government body that collects,
4 20 maintains, or processes a public record containing personal
4 21 information to disclose any breach of security to an affected
4 22 individual upon discovery or notification of the breach. The
4 23 bill defines "personal information" as an individual's first
4 24 name or first initial and last name in combination with one or
4 25 more data elements from a specified list, if neither the name
4 26 nor the data elements are encrypted, redacted, or otherwise
4 27 altered in such a manner that the name or data elements are
4 28 unreadable.

4 29 Disclosure by a government body shall be in the form of
4 30 notice and shall be made in the most expedient time and manner

4 31 possible. Notice shall also be consistent with any measures
4 32 necessary to determine the scope of the breach and with the
4 33 legitimate needs of law enforcement. If requested by a law
4 34 enforcement agency, the government body shall delay giving
4 35 notice if doing so would impede a criminal investigation or
5 1 endanger state or national security. The request by a law
5 2 enforcement agency shall be in writing or documented in
5 3 writing by the government body.

5 4 Notice to an affected individual shall be clear and
5 5 conspicuous, and shall include a description of the incident
5 6 causing the breach, the type of personal information
5 7 compromised by the breach, a description of any remedial
5 8 action taken by the government body, contact information where
5 9 the affected individual may call for further information and
5 10 assistance, and a statement advising the affected individual
5 11 to thoroughly and continually review financial account
5 12 information and credit reports.

5 13 The bill provides three methods by which notice may be
5 14 given. The three methods are written notice to the affected
5 15 individual's last address of record, electronic mail notice if
5 16 the affected individual has agreed to receive communications
5 17 electronically, and telephonic notice if the communication is
5 18 directly with the affected individual. The bill also allows
5 19 for substitute notice if the government body determines that
5 20 the cost of providing notice to the affected individual
5 21 exceeds \$100,000, the total cost of providing notice to all
5 22 affected individuals exceeds \$250,000, or the government body
5 23 does not have sufficient contact information needed to provide
5 24 notice. Substitute notice consists of electronic mail notice,
5 25 conspicuous notice posted on the government body's internet
5 26 site, or notification through local or statewide media.

5 27 The bill requires a government body to take all reasonable
5 28 steps to destroy public records containing personal
5 29 information that are no longer required to be retained by the
5 30 government body and implement reasonable security procedures
5 31 to protect personal information from unauthorized access,
5 32 destruction, use, modification, or disclosure.

5 33 The bill permits a government body to approve and implement
5 34 its own notification procedures for a breach of security
5 35 involving personal information, so long as those procedures
6 1 are consistent with the requirements of new Code chapter 23.

6 2 LSB 5495DP 82
6 3 md/rj/5.1